UNITED STATES PATENT AND TRADEMARK OFFICE

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09/966,759	10/01/2001	John S. Hendricks	SEDN/3698D6	7417

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PATTERSON & SHERIDAN, LLP/
SEDNA PATENT SERVICES, LLC
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY, NJ 07702

EXAMINER
KOENIG, ANDREW Y

ART UNIT	PAPER NUMBER
2623	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
 Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>28 June 2007</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 June 2007 has been entered.

Response to Arguments

2.   Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

For the amended independent claims, the applicant has provided no argument to the combination of Wachob '494 and Wachob '591, but merely Wachob '494 relating to the rejections under 35 U.S.C. 103(a).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over

U.S. Patent 5,231,494 to Wachob (Wachob '494) in view of U.S. Patent 5,155,591 to

Wachob (Wachob '591).

        Regarding claim 1, Wachob '494 teaches associating a first video program with a

first channel (see figure 2, label 40 – RF Modulator A, col. 5, ll. 43-55), and a second

program with a second channel (see figure 2, label 42 – RF Modulator B, col. 5, ll. 43-

55), Wachob '494 teaches receiving from a respective subscriber input device chosen

from by each one of the plurality of subscribers (at different locations) (col. 5-6, ll. 67-

6)(I/R remote control – 74) a channel selection (col. 6, ll. 9-18), which in turn sends the

channel selection to a television associated with the subscriber (col. 6, ll. 18-23) and

sending a different video program (e.g. a commercial) associated with a different

(virtual/logical) channel not selected by the plurality of subscribers to each television

associated with a plurality of subscribers, wherein the different video program for each

one of the plurality of subscribers is not the same (col. 5-6, ll. 56-6).

        Wachob '494 teaches sending different video programs associated with a

different channel, but is silent on the sending a different video program selected at a

head end via a network controller. Wachob '591 teaches collecting viewing habits, such

as channels/programs viewed, pay-per-view purchases (col. 8, ll. 17-33) and sending

the data to a headend (fig. 5, label. 50, col. 8, ll. 46-67, col. 9, ll. 4-10), which reads on a

network controller. Therefore, it would have been obvious to one of ordinary skill in the

art at the time the invention was made to modify Wachob '494 by a network controller

sending different video programs targeted to the viewers as taught by Wachob '591 in

order to provide a plurality of alternate commercial channels targeted to different

demographically defined audiences (Wachob '591: col. 9, II. 8-10), thereby efficiently

utilizing advertising budgets (Wachob '591: col. 1, II. 29-30).

Regarding claim 2, Wachob '494 teaches receiving from a respective subscriber

input device (I/R remote control – 7) a channel selection for display on a respective

television of each of the plurality of subscribers, wherein the channel selection chosen

by each one of the plurality of subscribers is the same (col. 6, II. 9-23, col. 5-6, II. 56-6),

and associating plural video programs with a plurality of channels (col. 5, II. 43-55), and

sending at least one of the video programs to the television on a different (virtual/logical)

channel without regard to the channel selection wherein the at least one of the video

programs (commercials) is not the same at each respective television of the plurality of

subscribers in that Wachob '494 teaches selecting the commercial (claimed at least one

of the video programs) without regard to channel selection (col. 5-6, II. 56-6).

Wachob '494 teaches sending video programs associated with a different

channel, but is silent on the sending a video program selected at a head end via a

network controller. Wachob '591 teaches collecting viewing habits, such as

channels/programs viewed, pay-per-view purchases (col. 8, II. 17-33) and sending the

data to a headend (fig. 5, label. 50, col. 8, II. 46-67, col. 9, II. 4-10), which reads on a

network controller. Therefore, it would have been obvious to one of ordinary skill in the

art at the time the invention was made to modify Wachob '494 by a network controller

sending video programs targeted to the viewers as taught by Wachob '591 in order to

provide a plurality of alternate commercial channels targeted to different

demographically defined audiences (Wachob '591: col. 9, II. 8-10), thereby efficiently

utilizing advertising budgets (Wachob '591: col. 1, II. 29-30).

Regarding claim 3, Wachob '494 teaches that the video program comprises

advertisements that are demographically targeted to the plurality of subscribers based

on a respective profile associated with each one of the plurality of subscriber (col. 5-6, II.

56-6).

Regarding claim 4, Wachob '494 teaches receiving at a respective set top

terminal a television signal (see tuner/demodulator – fig. 2, label 62, col. 6, II. 7-9),

wherein the demultiplexer and decompressor (fig. 2, label 66) extracts individual

television programs from the signal (col. 5-6, II. 67-3, col. 6, II. 13-23). Wachob '494

teaches associating the programs with channels available for selection by the plurality

of subscribers using a respective user input device (remote control - col. 6, II. 9-18),

wherein the programs are displayed on a respective television associated with each one

of the plurality of subscribers (col. 6, II. 18-23). Further, Wachob '494 teaches receiving

respective user information associated with each one of the plurality of subscribers and

storing the respective information in memory in a respective user profile (fig. 2, label 72,

col. 5, II. 58-61), associating a commercial message (claimed advertisement) with the

respective user profile and associating the advertisement with a channel (col. 5-6, II. 67-

6), and displaying on a respective television the program associated with the channel

selected by the plurality of subscribers, and displaying on the respective television

during a break in the selected program, the advertisement, wherein the advertisement is

associated with a different logical channel than the selected program (col. 5-6, ll. 58-23).

Further, Wachob '494 teaches switching the commercial which reads on switching the

respective television to the channel associated with the advertisement in that the

receiver is switching logical channels with the demultiplexer (col. 5-6, ll. 58-23), Wachob

'494 teaches sending the advertisement to the respective television, wherein the

advertisement is not the same for each of the plurality of subscribers (col. 6, ll. 18-23),

and returning the respective television to the channel associated with the selected

program after sending the advertisement (col. 2, ll. 33-35).

Wachob '494 teaches sending advertisements, but is silent on the sending an

advertisement selected at a head end via a network controller. Wachob '591 teaches

collecting viewing habits, such as channels/programs viewed, pay-per-view purchases

(col. 8, ll. 17-33) and sending the data to a headend and sending an advertisement

selected at the headend via a network controller (fig. 5, label. 50, col. 8, ll. 46-67, col. 9,

ll. 4-10), which reads on a network controller. Therefore, it would have been obvious to

one of ordinary skill in the art at the time the invention was made to modify Wachob '494

by a network controller sending an advertisement targeted to the viewers as taught by

Wachob '591 in order to provide a plurality of alternate commercial channels targeted to

different demographically defined audiences (Wachob '591: col. 9, ll. 8-10), thereby

efficiently utilizing advertising budgets (Wachob '591: col. 1, ll. 29-30).

Regarding claim 5, Wachob '494 teaches collecting demographic information

such as sex and age group, but is silent on viewing habits of a respective user. In

analogous art, Wachob '591 teaches collecting viewing habits, such as

channels/programs viewed, pay-per-view purchases (col. 8, II. 17-33), which reads on

collecting information about viewing habits of the respective user. Therefore, it would

have been obvious to one of ordinary skill in the art at the time the invention was made

to modify Wachob '494 by using viewing habits of a respective user as taught by

Wachob '591 in order to more effectively target different demographically defined

audiences.

Regarding claim 6, Wachob '494 teaches associating advertisements with the

user profile, but is silent on using a network controller to target the advertisements to

the subscriber based on the demographic information. Wachob '591 teaches collecting

viewing habits, such as channels/programs viewed, pay-per-view purchases (col. 8, II.

17-33) and sending the data to a headend (col. 8, II. 46-67) thereby enabling the system

to target different demographics (col. 9, II. 4-10). Therefore, it would have been obvious

to one of ordinary skill in the art at the time the invention was made to modify Wachob

'494 by using a network controller to target the advertisements to the subscriber based

on the demographic information as taught by Wachob '591 in order to more effectively

target different demographically defined audiences.

Regarding claim 7, Wachob '494 teaches receiving the television signal comprising receiving a television signal sent to a plurality of subscribers having different user profiles (col. 5, II. 10-14, col. 5-6, II. 56-7) and the step of displaying the advertisement comprises displaying for each of the subscribers the advertisements associated with the subscriber's user profile (col. 5-6, II. 56-7), whereby different subscribers watching the same program on the same channel may view different advertisements based on their user profiles (col. 5-6, II. 56-7).

Regarding claim 8, Wachob '494 teaches a tuner for a means for receiving a television signal (see tuner/demodulator – fig. 2, label 62, col. 6, II. 7-9), a demultiplexer/decompressor as a means for extracting individual programs from the signal (fig. 2, label 66, col. 5-6, II. 67-3, col. 6, II. 13-23), an I/R receiver as a means for receiving program channel selections from a respective user input device of the subscribers (remote control - col. 6, II. 9-18), microcontroller along with the demultiplexer/decompressor as a means for sending a program associated with the selection to each respective television of the subscribers, the program being associated with a first logical channel (col. 5-6, II. 56-6), and a modulator as a means for sending to the television a commercial associated with a second logical channel, wherein the commercial is not the same on each respective television of the subscribers (col. 6, II. 18-23).

Wachob '494 teaches sending video programs associated with a different channel, but is silent on the sending a video program selected at a head end via a

network controller. Wachob '591 teaches collecting viewing habits, such as

channels/programs viewed, pay-per-view purchases (col. 8, ll. 17-33) and sending the

data to a headend (fig. 5, label. 50, col. 8, ll. 46-67, col. 9, ll. 4-10), which reads on a

network controller. Therefore, it would have been obvious to one of ordinary skill in the

art at the time the invention was made to modify Wachob '494 by a network controller

sending video programs targeted to the viewers as taught by Wachob '591 in order to

provide a plurality of alternate commercial channels targeted to different

demographically defined audiences (Wachob '591: col. 9, ll. 8-10), thereby efficiently

utilizing advertising budgets (Wachob '591: col. 1, ll. 29-30).

Regarding claim 9, Wachob '494 teaches a demultiplexer/decompressor as a

means for switching the respective television from the first channel to the second

channel before the commercial is displayed on the television, and as a means for

returning the respective television to the program after the commercial is displayed (col.
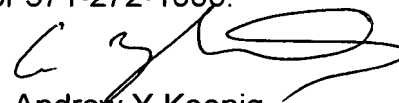
5-6, ll. 56-23, col. 2, ll. 33-35).

Regarding claim 10, Wachob '494 teaches switching channels without any direct

input on which advertisement should be displayed (col. 5-6, ll. 56-6), accordingly,

Wachob '494 teaches switching and returning without indicating to one of the

subscribers that the television has changed channels.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Fr (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571)272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andrew Y Koenig
Primary Examiner
Art Unit 2623

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